

BEFORE THE JUDICIAL QUALIFICATIONS COMMISSION
STATE OF FLORIDA

INQUIRY CONCERNING A JUDGE,
NO. 03-78, DENNIS MALONEY

CASE NO. _____

NOTICE OF FORMAL CHARGES

TO: Honorable Dennis P. Maloney
Polk County Courthouse
255 N. Broadway
Bartow, FL 33831-9000

You are hereby notified that the Investigative Panel of the Florida Judicial Qualifications Commission, by a vote of those members present at its meeting held in Tampa, Florida on September 12, 2003, has determined pursuant to Rule 6(f) of the Rules of the Florida Judicial Qualifications Commission, as revised, and Article V, § 12(b) of the Constitution of the State of Florida, that probable cause exists for formal proceedings to be, and the same are hereby, instituted against you to inquire into charges based upon allegations that you improperly used your judicial office to cause an individual with whom you had a personal relationship to be released from the custody of the Lakeland Police Department following that individual's arrest for driving under the influence of alcohol, *to wit*:

1. During the early morning hours of January 10, 2003, Travis Braddy was arrested by an officer of the Lakeland Police Department ("Lakeland Police") for driving under the influence of alcohol, in violation of section 316.193, *Florida*

Statutes. Your son was a passenger in the vehicle operated by Mr. Braddy, although your son was not charged with any offense.

2. You had a close personal relationship with Mr. Braddy (having known Mr. Braddy and his father for approximately fifteen years), such that your impartiality might reasonably be questioned if Mr. Braddy were to appear before you in formal judicial proceedings.

3. After picking up your son on the morning in question, you proceeded to contact the Lakeland Police and direct, over the objection of the Lakeland Police, that Mr. Braddy be released to the custody of his father. You did so despite a state law providing that persons arrested for driving under the influence of alcohol may not be released from custody until:

(a) the person is no longer under the influence of alcoholic beverages . . . and affected to the extent that his or her normal faculties are impaired;

(b) the person's blood-alcohol level or breath-alcohol level is less than .05; or

(c) 8 hours have elapsed from the time the person was arrested.

See §316.193(9)(a)-(c), *Florida Statutes*.

4. Based solely upon your demands, the Lakeland Police released Mr. Braddy to his father on the morning in question, notwithstanding the requirements of §316.193(9)(a)-(c), *Florida Statutes*.

5. The acts described above, if they occurred as alleged, were in violation of Canon 1, Canon 2A, and Canon 2B, and occurred at a time when you should have been circumspect in: i) avoiding any impropriety or the appearance of impropriety; and/or ii) engaging in any conduct which might erode public confidence in the integrity and impartiality of the judiciary.

CONCLUSION

6. The acts described above, if they occurred as alleged, would also impair the confidence of the citizens of this state in the integrity of the judicial system and in you as a judge; would constitute conduct unbecoming a member of the judiciary; and would warrant discipline, including, but not limited to, your removal from office and/or any lawyer discipline recommended by the Commission.

You are hereby notified of your right to file a written answer to the above charges made against you within twenty (20) days of service of this notice upon you.

Dated this 15th day of January, 2004.

Thomas C. MacDonald, Jr., Esq.
General Counsel - and -
Judicial Qualifications Commission
1904 Holly Lane
Tampa, FL 33629
813/254-9871

/s/ _____
By: Lansing C. Scriven, Esq.
Special Counsel
Judicial Qualifications Commission
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **NOTICE OF FORMAL CHARGES** has been furnished by **CERTIFIED MAIL** to the **HONORABLE DENNIS P. MALONEY**, Polk County Courthouse, 255 N. Broadway, Bartow, FL 33831; and **ROBIN GIBSON, ESQ.**, 212 E. Stuart Ave., Lake Wales, FL 33853-3713 on this 15th day of January, 2004.

/s/

Attorney